

1-1 By: Geren, et al. (Senate Sponsor - Hancock) H.B. No. 1024  
1-2 (In the Senate - Received from the House March 25, 2021;  
1-3 April 12, 2021, read first time and referred to Committee on  
1-4 Business & Commerce; April 19, 2021, reported favorably by the  
1-5 following vote: Yeas 8, Nays 0; April 19, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Hancock	X		
1-9	Nichols	X		
1-10	Campbell	X		
1-11	Creighton	X		
1-12	Johnson	X		
1-13	Menéndez		X	
1-14	Paxton	X		
1-15	Schwertner	X		
1-16	Whitmire	X		

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the pickup and delivery of alcoholic beverages from  
1-20 certain premises for off-premises consumption.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. The heading to Section 28.1001, Alcoholic  
1-23 Beverage Code, is amended to read as follows:

1-24 Sec. 28.1001. PICKUP AND ~~[OFF-PREMISES]~~ DELIVERY OF  
1-25 ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION.

1-26 SECTION 2. Section 28.1001, Alcoholic Beverage Code, is  
1-27 amended by amending Subsections (a), (c), and (d) and adding  
1-28 Subsections (a-1), (a-2), and (e) to read as follows:

1-29 (a) In this section:

1-30 (1) "Passenger area of a motor vehicle" has the  
1-31 meaning assigned by Section 49.031, Penal Code.

1-32 (2) "Tamper-proof container" means a container that,  
1-33 once sealed, clearly shows whether it has been opened. The term  
1-34 includes a closed cup or similar container that is:

1-35 (A) placed into a bag that has been sealed with a  
1-36 zip tie or staple;

1-37 (B) sealed with shrink wrap or a similar seal; or

1-38 (C) sealed by other methods approved by rule of  
1-39 the commission.

1-40 (a-1) Notwithstanding any other provision of this code, the  
1-41 holder of a mixed beverage permit may deliver, or have delivered by  
1-42 a third party, including an independent contractor acting under  
1-43 Chapter 57, as added by Chapter 441 (S.B. 1450), Acts of the 86th  
1-44 Legislature, Regular Session, 2019, an alcoholic beverage from the  
1-45 permitted premises to an ultimate consumer located off-premises and  
1-46 in an area where the sale of the beverage is legal if:

1-47 (1) the holder of the mixed beverage permit holds a  
1-48 food and beverage certificate for the permitted premises;

1-49 (2) the delivery of the alcoholic beverage is made as  
1-50 part of the delivery of food prepared at the permitted premises;

1-51 (3) the alcoholic beverage is:

1-52 (A) a malt beverage ~~[beer, ale,]~~ or wine  
1-53 delivered in:

1-54 (i) an original container sealed by the  
1-55 manufacturer; or

1-56 (ii) a tamper-proof container that is  
1-57 sealed by the permit holder and clearly labeled with the permit  
1-58 holder's business name and the words "alcoholic beverage"; or

1-59 (B) an alcoholic beverage other than a malt  
1-60 beverage ~~[beer, ale,]~~ or wine that:

1-61 (i) is ~~[7]~~ delivered in an original,

single-serving container sealed by the manufacturer and not larger than 375 milliliters; or

(ii) the permit holder mixes with other beverages or garnishes and stores in a tamper-proof container that is clearly labeled with the permit holder's business name and the words "alcoholic beverage"; and

(4) the delivery is not made to another ~~[a]~~ premises that is permitted or licensed under this code.

(a-2) Notwithstanding any other provision of this code, the holder of a mixed beverage permit may allow an ultimate consumer to pick up an alcoholic beverage described by Subsection (a-1)(3) and remove the beverage from the permitted premises if:

(1) the holder of the mixed beverage permit holds a food and beverage certificate for the permitted premises; and

(2) the pickup of the alcoholic beverage is made as part of the pickup of food prepared at the permitted premises.

(c) An alcoholic beverage picked up or ~~[may be]~~ delivered under this section may be provided only to a person who is 21 years of age or older after the person picking up the alcoholic beverage or accepting the delivery presents valid proof of identity and age and:

(1) the person picking up the alcoholic beverage or accepting the delivery personally signs a receipt, which may be electronic, acknowledging the pickup or delivery; or

(2) the person providing the beverage for pickup or making the delivery acknowledges the completion of the pickup or delivery through a software application.

(d) This section does not authorize the holder of a brewpub license who also holds a wine and malt beverage ~~[beer]~~ retailer's permit to deliver alcoholic beverages directly to ultimate consumers for off-premise consumption at a location other than the licensed premises.

(e) A person who picks up or delivers an alcoholic beverage described by Subsection (a-1)(3)(A)(ii) or (a-1)(3)(B)(ii) may not transport the alcoholic beverage in the passenger area of a motor vehicle.

SECTION 3. Section 32.01(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A private club registration permit authorizes alcoholic beverages belonging to members of the club to be:

(1) stored, possessed, and mixed on the club premises; ~~[and]~~

(2) served for on-premises consumption only to members of the club and their families and guests, by the drink or in sealed, unsealed, or broken containers of any legal size; and

(3) served for off-premises consumption only to members of the club in the manner provided by Section 32.155.

SECTION 4. Section 32.15, Alcoholic Beverage Code, is amended to read as follows:

Sec. 32.15. REMOVAL OF BEVERAGES FROM PREMISES. A private club, irrespective of location or system of storage of alcoholic beverages, may not permit any person to remove any alcoholic beverages from the club premises, except:

(1) as authorized by:

(A) Section 28.10(b) or 32.155; or

(B) Chapter 57, as added by Chapter 441 (S.B. 1450), Acts of the 86th Legislature, Regular Session, 2019; or

(2) for the purpose of removing unused inventory the person brought onto the premises under Section 14.07, as added by Chapter 792 (H.B. 1997), Acts of the 86th Legislature, Regular Session, 2019, or 37.01(d).

SECTION 5. Chapter 32, Alcoholic Beverage Code, is amended by adding Section 32.155 to read as follows:

Sec. 32.155. PICKUP AND DELIVERY OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION. (a) In this section:

(1) "Passenger area of a motor vehicle" has the meaning assigned by Section 49.031, Penal Code.

(2) "Tamper-proof container" has the meaning assigned by Section 28.1001.

(b) Notwithstanding any other provision of this code, the holder of a private club registration permit may deliver, or have delivered by a third party, including an independent contractor acting under Chapter 57, as added by Chapter 441 (S.B. 1450), Acts of the 86th Legislature, Regular Session, 2019, an alcoholic beverage from the permitted premises to an ultimate consumer located off-premises and in the county in which the private club is located if:

(1) the holder of the private club registration permit holds a food and beverage certificate for the permitted premises;

(2) the delivery of the alcoholic beverage is made as part of the delivery of food prepared at the permitted premises;

(3) the ultimate consumer is a member of the club;

(4) the alcoholic beverage is:

(A) a malt beverage or wine delivered in:

(i) an original container sealed by the manufacturer; or

(ii) a tamper-proof container that is sealed by the permit holder and clearly labeled with the name of the private club registration permit holder and the words "alcoholic beverage"; or

(B) an alcoholic beverage other than a malt beverage or wine that:

(i) is delivered in an original, single-serving container sealed by the manufacturer and not larger than 375 milliliters; or

(ii) the permit holder mixes with other beverages or garnishes and stores in a tamper-proof container that is clearly labeled with the name of the private club registration permit holder and the words "alcoholic beverage"; and

(5) the delivery is not made to another premises that is permitted or licensed under this code.

(c) Notwithstanding any other provision of this code, the holder of a private club registration permit may allow an ultimate consumer to pick up an alcoholic beverage described by Subsection (b)(4) and remove the beverage from the permitted premises if:

(1) the holder of the private club registration permit holds a food and beverage certificate for the permitted premises;

(2) the pickup of the alcoholic beverage is made as part of the pickup of food prepared at the permitted premises; and

(3) the ultimate consumer is a member of the club.

(d) An alcoholic beverage picked up or delivered under this section may be provided only to a person who is 21 years of age or older after the person picking up the alcoholic beverage or accepting the delivery presents valid proof of identity and age and:

(1) the person picking up the alcoholic beverage or accepting the delivery personally signs a receipt, which may be electronic, acknowledging the pickup or delivery; or

(2) the person providing the beverage for pickup or making the delivery acknowledges the completion of the pickup or delivery through a software application.

(e) A person who picks up or delivers an alcoholic beverage described by Subsection (b)(4)(A)(ii) or (b)(4)(B)(ii) may not transport the alcoholic beverage in the passenger area of a motor vehicle.

SECTION 6. Section 32.17(a), Alcoholic Beverage Code, as effective September 1, 2021, is amended to read as follows:

(a) The commission or administrator may cancel or suspend for a period of time not exceeding 60 days, after notice and hearing, an original or renewal private club registration permit on finding that the permittee club has:

(1) sold, offered for sale, purchased, or held title to any alcoholic beverage so as to constitute an open saloon;

(2) refused to allow an authorized agent or representative of the commission or a peace officer to come on the club premises for the purposes of inspecting alcoholic beverages stored on the premises or investigating compliance with the provisions of this code;

(3) refused to furnish the commission or its agent or representative when requested any information pertaining to the storage, possession, serving, or consumption of alcoholic beverages on club premises;

(4) except as authorized under Section 32.15, permitted or allowed any alcoholic beverages stored on club premises to be served or consumed at any place other than on the club premises;

(5) failed to maintain an adequate building at the address for which the private club registration permit was issued;

(6) caused, permitted, or allowed any member of a club in a dry area to store any liquor on club premises except under the locker system;

(7) caused, permitted, or allowed any person to consume or be served any alcoholic beverage on the club premises:

(A) at any time on Sunday between the hours of 1:15 a.m. and 10 a.m. or on any other day at any time between the hours of 12:15 a.m. and 7 a.m., if the club does not have a retailer late hours certificate, except that an alcoholic beverage served to a customer between 10 a.m. and 12 noon on Sunday must be provided during the service of food to the customer; or

(B) at any time on Sunday between the hours of 2 a.m. and 10 a.m. or on any other day at any time between the hours of 2 a.m. and 7 a.m., if the club has a retailer late hours certificate, except that an alcoholic beverage served to a customer between 10 a.m. and 12 noon on Sunday must be provided during the service of food to the customer; or

(8) violated or assisted, aided or abetted the violation of any provision of this code.

SECTION 7. Section 57.01(b), Alcoholic Beverage Code, is amended to read as follows:

(b) An alcoholic beverage may be delivered under this section only if the alcoholic beverage is sold or served to the ultimate consumer by the holder of a:

- (1) package store permit;
- (2) wine only package store permit;
- (3) wine and beer retailer's permit;
- (4) wine and beer retailer's off-premise permit;
- (5) retail dealer's on-premise license;
- (6) retail dealer's off-premise license; ~~or~~
- (7) mixed beverage permit authorized to deliver alcoholic beverages under Section 28.1001; or
- (8) private club permit authorized to deliver alcoholic beverages under Section 32.155.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

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